

**Missouri Small Business Regulatory Fairness Board**  
**February 13, 2007**  
**Public Hearing Meeting**  
**St. Louis Regional Chamber and Growth Association**  
**1-4pm**

Board Members in Attendance: Chairman Scott George, Maria Guadalupe Taxman, and Michael Ocello

Board Members Absent: Vice Chairman Randy Angst, Representative Trent Skaggs, Representative Brian Baker and Senator Gary Nodler

Testifying: Richard Sachs, The Sachs Group, St. Charles; Donna and Gregg Routh, SW MO Motorcycle Training Center LLC

Guests: Wendy Cromer, Title Insurance; Ron O'Connor, O'Connor & Partners; Heather Dettart, O'Connor & Partners; Morris Westfall, Department of Natural Resources Small Business Ombudsman; Wendell Bailey, US Small Business Administration; Krista Zurkamer, Missouri Department of Economic Development;

Chairman George called the public hearing to order at 1:24 p.m., welcoming everyone to today's events and thanked those in attendance for braving the weather.

Chairman George described the process as 3 steps. The 1<sup>st</sup> as rules are being created if the agency determines small business will be affected get the small business involved to minimize the impact. The 2<sup>nd</sup> is when enforcing rules take in consideration the small business and help comply. The 3<sup>rd</sup> is the review of existing regulatory rules in consideration of the impact on small business, updating and discarding when necessary.

The board members and supporting staff made introductions.

Chairman George also reassured small business wanting to testify of their security. He assured them that there has never been retaliation on the federal or state level. The SBRFB has the support of state officials whom made it very clear retaliation would not be tolerated.

Chairman George introduced the one part of today's hearing as the public testimony. Each scheduled speaker again will have 5 minutes and those who sign in today will be limited to 3 minutes. Thank you for attending and commenting today, we appreciate you sharing your story with us. The 1<sup>st</sup> speaker will be Mr. Richard Sachs.

**Scheduled Small Business Speakers:**

*Richard Sachs, The Sachs Group*

Richard Sachs expressed his appreciation towards the Board for the opportunity to speak today. Micro businesses or businesses with 10 or fewer workers, are a crucial part of

Missouri's economy, but in a mis-guided effort to help these businesses, the State of Missouri has exempted these businesses from many programs, in effect ignoring this critical part of our state's economy and work force. In Missouri alone there now are more than 95,000 of these micro businesses, with more than 272,000 Missouri workers depending on the micro businesses for their income and livelihood.

To put the size of this work force in perspective, please consider that these 272,000 workers equal the entire populations of Cape Girardeau, Columbia, Rolla, Joplin, Lebanon, Mt. Vernon and Belton. Plus to account for the full 272,000 workers we still must include Hannibal, Poplar Bluff, Lamar, and West Plains. All of these Missouri workers depend on income generated by micro businesses, which our State government considers in the same category as small businesses, defining a small business as a company with up to 100 workers. Worse yet, Federal government agencies define a small business as being even larger—up to 250 workers.

By not classifying these micro businesses in a separate category, we essentially are ignoring them. They are so far down the food chain that they cannot compete for small business benefits provided to larger small companies. The Missouri Small Business Regulatory Fairness Board ensures that state agency rules and regulations don't create an unfair burden for small businesses. Yet, government is placing hardships on micro businesses when government overlooks or ignores these very small businesses simply due to size, and the out-moded perception of what constitutes success.

The State's criteria for judging success is the same for all businesses both large and small—the size of the year's profit or the total employee complement. But that yard stick simply doesn't work for micro businesses, which instead should be judged by longevity. Since two-thirds of these micro businesses fail within their first five years, if a micro business can survive through its first five years, regardless of its income, that business should be considered a success.

For many people, the small family business pays the bills and hopefully allows for retirement. In the truest sense, these businesses are simply a way to make a decent living—they are self created jobs. They WANT to be micro businesses. They will NOT create many new jobs, they will NOT pay large amounts of tax. But they will keep their owners and employees working and contributing to the economy and providing goods and services to the community.

Its time we stop ignoring these micro businesses and begin supporting them. Let's start by creating a more contemporary definition of small business, and then by treating the companies that fall into that category differently than those with 100 workers. Organizing a micro business department or subset of a State agency would help, where different solutions for the smaller businesses could be formulated in the areas of employment regulations, health insurance and capital assistance. State income tax credits, for example, do no good unless the recipient pays a lot of state tax. A well-managed micro business may never show a profit (and therefore never pay much state

income tax) because the principals will always take out compensation equivalent to “whatever is left”.

On the other hand, currently Missouri doesn’t require companies with fewer than five employees to carry worker’s compensation insurance. Missouri **SHOULD** require micro businesses to carry worker’s compensation. Does a roofer working for a small contractor have less risk doing his or her job than another roofer who happens to work for a large contractor? I don’t think so. Yet one major personal injury claim can wipe out an uninsured company—and often does. If micro businesses cannot afford worker’s compensation insurance, then Missouri should have a program to help them out. Exempting them does not make the problem go away, it makes the problem worse. Programs designed to allow communities to take care of their own entrepreneurs through a range of assistance should be addressed. Local Workforce Investment Boards to establish entrepreneurial training. However, the grant specifically stipulates that programs utilizing the Kauffman Foundation’s “Fast-Trac” program will be given special consideration. All due respect to the Kauffman Foundation, but their programs have been around for years and have not put a dent in the micro business failure rate. We must encourage new thought in this arena, not try the same things over and over again. We urge you to consider, that as a state, we must stop ignoring our micro-sized businesses and start supporting them. A hearing addressing specific ways micro businesses are being served by the State of Missouri would be beneficial to the state and to each of its 95,000 micro businesses.

In a classic business sense, micro businesses may not be going anywhere. They may never go public, but they provide a necessary and vital resource to our communities. And many of us know those communities well—because they’re the communities in which we live.

### **Questions:**

*Maria Guadalupe Taxman*

Ms. Taxman agreed with Mr. Sachs sentiments; within the Hispanic communities many of the business are starter grocery stores and restaurants. These businesses don’t function on the same level of the larger businesses.

*Chairman Scott George*

Many of the micro businesses are judged upon their longevity; how do they get through the next five years 2/3 fail in those first five years. A key to surviving is job creation; everything we do is based on job creation.

Worker compensation is not required for small businesses with four or less employees. When employees get hurt it puts the business at risk and in many cases the business fails. Compensation premiums continue to grow and implode making it difficult every year for small business to offer worker compensation.

*Richard Sachs*

Many businesses don't fully realize the appropriate insurance coverage needed until there is a situation where they are not covered and their assets are on the line. There seems to be this assumption we are assisting businesses by not requiring them to have worker compensation and insurance. There is a lack of interest and understanding in the issues that face micro businesses.

Chairman George thanked Mr. Sachs for braving the weather today to share with the Board his testimony about the needs of micro businesses. Chairman George introduced the second small business speaker Mr. Gregg and Mrs. Donna Routh.

*Donna and Gregg Routh, SW MO Motorcycle Training Center, LLC*

Good Afternoon, first I would like to thank Krista for inviting us this afternoon. My name is Donna Routh and this is my husband Gregg Routh from Springfield, Missouri. We started a small business in Springfield in 2004 and this year lost that business, partially due to an individual who represents the State of Missouri.

My husband and I are motorcycle enthusiasts. We love motorcycle riding and in 2003 after finding out how difficult it was to get into a Motorcycle Safety training course; we opened our business, SW MO Motorcycle Training Center, LLC in January 2004. Don't think all of this came easy, first as a female business owner in a male dominated world, it was difficult at times to get people to listen or take me seriously. I had a school official walk into my place of business and tell me, "you do it my way or I'll take the business and run it myself." We dealt with the State Coordinator, Neil Meyers, who told me "I was going to have to prove myself and he would be watching." The only reason he was talking to me was because of my enthusiasm. It was supposed to just be a weekends, but once the word was out the phones rang off the hook. Our 12 weeks of classes in 2004 turned into 23. In 2005, carried over 100 people from 2004 and did our part to keep the soldiers safe by training our military sent from the US Marine Corp and Ft. Wood. We also played a large part in training the local police and Sheriff's departments. In 2006 we were booked all the way through November by August. We had created a successful and flourishing business, with hopes of opening our own training center in 2007.

On September 18, 2006, we received notice from the State Coordinator that he had sent someone into our course under a fraudulent name and this person had discovered issues in our course that needed to be addressed. This person attended the course in August, used an assumed name, fraudulently signing liability waivers. There was no way for Meyers to know there would be no possibility of injury and putting our business, our students, OTC, the State of Missouri and the MSF programs at risk, had he been injured in any way. This is completely out of protocol and unethical to have a State Representative sends someone in under a lie. By September 26, we had responded to this notice in writing both rebutting any discrepancies and making corrections on any valid issues. By Meyers email responses, there was no indication the issues were not resolved and there was any threat to our certifications or our business.

On October 4, 2006 at 1:00p.m., I received a call from Mr. Meyers, stating he was removing us as Rider Coaches and our business as an active sponsor. We still had six

weeks of training scheduled and when I approached Mr. Meyers, he stated we were still MSF certified and could continue to train the remainder of the classes, but would not be allowed to give the Missouri waiver for the driving exam and would have to come up with our own liability coverage. We had the right to appeal and the information would be in the letter following the conversation. Within a few minutes of hanging up, I started receiving calls from students scheduled for the following weekend. They had been contacted by OTC stating that classes had been cancelled and to contact us for a refund. I contacted Mike Toler at OTC and he confirmed he had spoken with Meyers; before Meyers had even contacted me. I received an email validating that conversation. Toler forwarded me the email from Meyers stating we could no longer teach the course. Contradicting the conversation I had with Meyers.

The outcome of Meyer's actions: the loss of our income, being unable to refund students who had prepaid for the upcoming weeks of training; because of prepaid business expenses, being accused of fraud and the close of our business. If there was a concern of our training, there were other options that would have allowed is to at least finish up the students already booked. We went through the appeal process with the Missouri Motorcycle Advisory Committee and the Missouri Department of Transportation. All of which stood behind Meyers in his decision and claim he did nothing wrong. The MoDOT statutes state: we entitled to a QA once a year for the business, QA twice a year for the Rider Coaches (neither of which were done in 2 ½ years, any issues or complaints we have 30 days to correct and if there is possibility of suspension or removal from the program, we are to be given a hearing. All we wanted was DUE PROCESS, yet we didn't get any of these.

In less than 24 hours of shutting us down, Terry Butler, Director of the Missouri Motorcycle Safety Program told a student; they were going to offer the program at OTC. Within a few days, we received calls from friends and dealers asking why OTC was calling asking about referrals and rider coaches for their motorcycle program. A student attended a class a few weeks later and overheard Meyers, the rider coach sent in to spy on us and another coach from a competitor stating now SWMMTC is gone they were going in together to start their own training program in Springfield. It appears MO protects themselves with our laws and statutes, but doesn't have a conscience when destroying small business and putting Missouri residents into financial ruin.

We have 1100 students including the Sheriff of Greene County, lawyers, doctors, nurses and many other professionals who will vouch for the integrity of our business, our program, our professionalism and our personal integrity. I can't say the same for Neil Meyers or OTC who has constantly made threats to steal our business and the State officials who allowed them to do so.

There should be something wrong with a Missouri official turning a business over to another Missouri college receiving state funds. There should be something wrong with Missouri having rules in place and not being held responsible when they don't follow rules and it leads to the destruction of a small business. Female owned businesses are

hard enough to get started, dealing with the bureaucracy and chauvinism. I would NEVER recommend anyone go into business or be in a business where they are in any way controlled by the State of Missouri. They took our dream and the State should be ashamed. Thank you for your time.

**Questions:**

*Micheal Ocello*

What were some of the issues addressed by MoDOT?

*Donna Routh*

The issue with the original testing day was the incomplete testing due to the rain; we began the testing and waited three hours to see if the rain would pass. We rescheduled the test for the following Friday and spoke with OTC as such. All the students drove back up the following week to take the remainder of the test. Upon arrival OTC did not have the parking lot prepared for the examination and there was a large trailer blocking the parking lot. We made the decision not to proceed with a third test based on additional hours for the students and OTC.

*Micheal Ocello*

What is the guideline or mandate for taking the test?

*Gregg Routh and Donna Routh*

The amount of hours in training is considered but there was nothing stating that the final examination must be completed.

*Micheal Ocello*

The premiums were not received as subscribed?

*Donna Routh*

The insurance checks are to be written out the MSF and sent to Neil Meyers, we assume he forwards the necessary information onto the proper authorities. We received no communication of the follow through. There was no communication prior to September 16<sup>th</sup> that there was a problem. The first check we issued to MSF in March was not cashed and tracked until 6 months later.

*Micheal Ocello*

The procedure is you have 30 days to correct the infraction and get a hearing; was their ever communication about the accident report?

*Donna Routh*

In the 2 ½ years nothing was stated about the accident reports. Of course we reported on injury due to accident but nothing on the equipment.

*Chairman Scott George*



Was any of the communication in relation to the rules and regulations ever put into writing?

*Gregg Routh*

All communication was verbal, we put our trust into the state.

*Maria Guadalupe Taxman*

Payment was stopped on the premium checks as yet not cashed?

*Gregg Routh*

After we were closed, we did stop payment to refund the money of the 120 students.

*Micheal Ocello*

Was there any further appeal to MMSC?

*Gregg Routh*

We have spoken to an attorney in relation to Neil Meyers actions.

*Chairman Scott George*

Although your license had been stopped you could have still conducted the classes?

*Donna Routh*

OTC cancelled the classes, OTC received notification from Mr. Meyers. Before we could even begin the appeal process and address our questions. We could have hired someone in to finish the remainder of the classes.

*Chairman Scott George*

Was there discussion about the fraud issue when sending someone under an assumed name and identity?

*Donna Routh*

The individual sign legal documents under this assumed name making us thereby liable and at risk. We are entitled to Q&A for our business to help assist the business in regulation compliance. Not once did anyone come and visit us.

*Micheal Ocello*

Up to the date had you ever had a complaint against your business?

*Donna Routh*

We had never had a complaint against us.

*Gregg Routh*

MoDOT has a training center in Springfield and we were hurting their business, Mr. Meyers and some other instructors are now setting up classes with OTC thereby eliminating the small business owner.

*Donna Routh*

It states we have 30 days to comply and to have a hearing but we weren't granted that opportunity and because of this it has not only affected our business but our livelihood.

*Chairman Scott George*

Chairman George thanked Mr. and Mrs. Routh for their candor and their participation in today's hearing. Chairman George asked if Morris Westfall, Small Business Ombudsman for Department of Natural Resources had any sentiments to add to the hearing.

*Morris Westfall*

Morris Westfall thanked the Board for the invitation to today's meeting and looked forward to continued work with the Board. Mr. Westfall did comment on some questions they have been receiving about the small business impact statement in terms of negatively impacting some E.P.A. guidelines. Communication is still in the preliminary stages and as it progresses Mr. Westfall will keep the Board advised.

*Wendell Bailey*

Wendell Bailey informed the Board of an upcoming Regulatory Fairness Best Practices Conference sponsored by the U.S. SBA being held in Kansas City. Our very own Chairman Scott George will be a panelist and there will be state representation across the map. As the details unveil Mr. Bailey will inform the Board of this truly significant event.

*Chairman Scott George*

Chairman George thanked both gentlemen for their continued participation in the Board. Chairman George informed the hearing of a new service offered by the Board. The SBRFB will be sending out Regulatory Alerts to interested small businesses via email of rules and regulations with a small business impact statement as they come in effect. The Regulatory Alerts will be sorted by State Agency and each small business will have the opportunity to choose what State Agencies they would like to receive alerts from. To subscribe to the Regulatory Alerts just click on the button above and fill in the necessary information and select which state agency or agencies you are interested in. This software will allow you to subscribe and unsubscribe to the alerts as you please.

Chairman George thanked those who testified at the hearing. With that said the SBRFB Public Hearing was concluded at 2:54 p.m.